

REMARKS

[0003] Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1, 3, 5-18, 20-25 and 73-77 are presently pending. Claims 1, 15 and 73 have been amended herein. Claims 2, 4, 19 and 26-72 have been withdrawn or cancelled (claims 4 and 19 herein).

Formal Request for an Interview

[0004] If the Examiner's reply to this communication is anything other than allowance of all pending claims, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can talk about this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

[0005] Please contact me or my assistant to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for us, I welcome your call to either of us as well. Our contact information may be found on the last page of this response.

Claim Amendments

[0006] Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 1, 15 and 73 herein.

Substantive Matters

Claim Rejections under §101

[0007] Claims 1, 2-14, and 73-76 are rejected under 35 U.S.C. §101. In light of the amendments presented herein, Applicant respectfully submits that these claims comply with the patentability requirements of §101 and that the §101 rejections should be withdrawn. The Applicant further asserts that these claims are allowable. Accordingly, Applicant asks the Examiner to withdraw these rejections.

[0008] If the Examiner maintains the rejection of these claims, then the Applicant requests additional guidance as to what is necessary to overcome the rejection.

Claim Rejections under §103(a)

[0009] Claims 1-8, 10-12, 14-19, 21-23, 25 and 73-75 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,801,937 to Novaes in view of U.S. Patent Application Publication No. 2003/0165140 to Tang.

[0010] Claims 9 and 13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Novaes in view of Tang in further view of U.S. Patent No. 6,801,937 to Hipp.

[0011] Claims 20, 24 and 76 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Novaes in view of Tang in view of Hipp and in further view of U.S. Patent No, 6,529,953 to Van Renesse.

[0012] In light of the amendments presented herein Applicant submits that these rejections are moot. Accordingly, Applicant asks the Examiner to withdraw these rejections.

Obviousness Rejections

Lack of *Prima Facie* Case of Obviousness (MPEP § 2142)

[0013] Applicant disagrees with the Examiner's obviousness rejections. Arguments presented herein point to various aspects of the record to demonstrate that all of the criteria set forth for making a prima facie case have not been met.

Independent Claim 1

[0014] Independent claim 1 has been amended to recite in pertinent part a computer implemented multi-tiered management architecture comprising:

an application development tier at which applications are developed for execution on one or more computers, the application development tier being implemented on a client console communicatively coupled to the one or more computers, wherein the client console is located remotely from a cluster operation tier console and an application operations tier console;

an application operations tier at which execution of the applications is managed, the application operations tier being implemented on the application operation management console at a location remote from the one or more computers; and

a cluster operations tier to manage the operation of the computers without concern for what applications are executing on the one or more computers, wherein the cluster operations tier is responsible for securing a computer cluster boundary based on network filters received from [[a]] the

cluster operation tier console and the application operation management console giving precedence to those from the cluster operation tier console over the application operation management console to prevent a plurality of other computers that are not part of the computer cluster from accessing the one or more computers in the computer cluster.

[0015] The cited art fails to teach or suggest to one of ordinary skill in the art each element of independent claim 1. The combination of Novaes and Tang fail to disclose “an application development tier at which applications are developed for execution on one or more computers” and “the application development tier being implemented on a client console communicatively coupled to the one or more computers, wherein the client console is located remotely from a cluster operation tier console and an application operations tier console”. As such, the cited combination does not render independent claim 1 obvious. Applicant respectfully requests that the Examiner withdraw the rejection of independent claim 1.

[0016] The Resource Management component of Novaes is cited as teaching the application development tier of claim 1. (see, November 15, 2007 Office Action, pg. 3). However, the Resource Management component of Novaes provides a basic communication layer to other cluster services, which are not part of the core cluster services (see, col. 6, lines 30-32). Applicant respectfully submits that a component that provides a basic communication layer to other cluster services does not teach or suggest an application development tier at which applications are developed for execution on one or more computers. The Resource Management component provides a basic communication layer, not a tier at which applications are developed. There is no discussion or mention in

the cited portion of Novaes of applications being developed, much less a tier of an architecture at which applications are developed for execution on one or more computers. Accordingly, Applicant respectfully submits that Novaes cannot teach or suggest an application development tier at which applications are developed for execution on one or more computers.

[0017] Furthermore, Tang does not rectify Novaes deficiencies. Tang is completely silent as to an application development tier at which applications are developed for execution on one or more computers. Thus, the combination of Novaes and Tang cannot render independent claim 1 obvious.

[0018] Claim 1 has further been amended to recite “the application development tier being implemented on a client console communicatively coupled to the one or more computers, wherein the client console is located remotely from a cluster operation tier console and an application operations tier console”. Neither Novaes nor Tang suggest that the application development tier being implemented on a client console separate from the cluster operation tier console and the application operations tier console. Even if one strained to read the Resource Management component of Novaes to disclose an application development tier, Novaes does not teach or suggest that the application development tier is implemented on a client console separately from the application operation tier console.

[0019] The Examiner equates the application operations tier with Novaes’ “Group Service Component”. (See, Office Action, p. 3). Novaes does not teach that the Group Service component and the Resource Management component

are implemented on separate consoles. Novaes teaches that the components of the cluster architecture are distributed across a plurality of nodes. Both Figures 2 and 4 of Novaes show that the Group Service component and the Resource Management component are joined within a single computing environment. Further, when multiple versions of the Resource Management and Group Services component communicate across multiple operating systems, the components are still paired within each operating system. (See, Fig. 4). Novaes never teaches that the Group Service component and the Resource Management component are implemented on two separate consoles. As such, Novaes does not teach nor suggest to one of ordinary skill in the art that the application development tier is implemented on a client console located remotely from an application operations tier console.

[0020] Tang fails to teach or suggest “the application development tier being implemented on a client console communicatively coupled to the one or more computers, wherein the client console is located remotely from a cluster operation tier console and an application operations tier console”. As such, the combination of Novaes and Tang cannot render independent claim 1 obvious. Applicant respectfully requests that the Examiner withdraw the rejection of independent claim 1.

Dependent Claims 3 and 5-14

[0021] These claims ultimately depend upon independent claim 1. As discussed above, claim 1 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally,

some or all of these claims may also be allowable for additional independent reasons.

Independent Claim 15

[0022] Independent claim 15 has been amended to recite in pertinent part a co-location facility system comprising:

wherein each management console is configured to receive node control commands from an application operations management console located remotely from the co-location facility and software components developed on an application development console, the application operations management console and application development console being located remote to each other;

[0023] As discussed with relationship to independent claim 1, the combination of Novaes and Tang fails to teach or suggest "software components developed on an application development console" and that "the application operations management console and application development console [are] remote to each other". As such, Novaes and Tang do not render independent claim 15 obvious. Claim 15 is at least allowable for the reasons discussed with regard to claim 1. Applicant respectfully request that the Examiner withdraw the rejection of independent claim 15.

Dependent Claims 16-18, 20-25 and 77

[0024] These claims ultimately depend upon independent claim 15. As discussed above, claim 15 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally,

some or all of these claims may also be allowable for additional independent reasons.

[0025] Dependent claim 77 was not addressed in the Office Action. Applicant would appreciate the Examiner independently addressing dependent claim 77 so as to allow Applicant the opportunity to fully address any rejection.

Independent Claim 73

[0026] Independent claim 73 recites a computer-implemented multi-tiered computer management architecture comprising:

a first tier corresponding to an owner or lessee of a computer;

a second tier, implemented by a cluster operations management console and a remote console that establishes network traffic boundaries based on network filters, giving preference to those from the cluster operations management console over that from the remote console, corresponding to a hardware operator that is to manage hardware operations of the computer but not application software operations of the computer;

a third tier, implemented by an application operations management console, corresponding to a software operator that is to manage software application operations of the computer but not hardware operations of the computer; and

a fourth tier corresponding to the owner or lessee, wherein the owner or lessee operates in the fourth tier except when revoking rights of the hardware operator or software operator.

[0027] Applicant respectfully submits that there is no teaching in Novaes of a fourth tier corresponding to an owner, wherein the owner operates in the fourth tier except when revoking the rights of the hardware operator or software operator. Nowhere in Novaes is there any discussion or mention of a four-tier management architecture with an owner operating in one of the tiers except when revoking the rights of a hardware operator or software operator. In fact, Novaes is completely silent as to an owner. Without any such discussion or mention, Applicant respectfully submits that Novaes cannot teach a fourth tier corresponding to an owner, wherein the owner operates in the fourth tier except when revoking the rights of the hardware operator or software operator as recited in claim 73.

[0028] With respect to Tang, Tang is not recited as curing, and does not cure these deficiencies of Novaes. For at least these reasons, Applicant respectfully submits that claim 73 is allowable.

Dependent Claims 74-76

[0029] These claims ultimately depend upon independent claim 73. As discussed above, claim 73 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Conclusion

[0030] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action.** Please call/email me or my assistant at your convenience.

Respectfully Submitted,

Dated: 2008-05-15

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